

LOCAL LAW NO. 1-2006 OF THE TOWN OF HALFMOON

“A Local Law to restrain the running at large and barking of dogs in the Town of Halfmoon, and generally regulating dogs and dog owners’ responsibilities”.

Section 1. Purpose. The Town of Halfmoon, New York, finds that the running at large and other uncontrolled behavior of dogs has caused physical harm to persons, damage to property and created nuisances within the Town. The purpose of this local law is to protect the health, safety and well-being of persons and property by imposing restriction and regulations upon the keeping or running at large of dogs and the seizure thereof within the Town.

Section 2. Authority. This local law is enacted pursuant to the provisions of Article 7 of the Agriculture and Markets Law.

Section 3. The title of this local law shall be “**Dog Control Ordinance of the Town of Halfmoon.**”

Section 4. Definitions.

(a) “**Owner**” means any person who owns, harbors, maintains or keeps any dog. In the event any dog found in violation of this ordinance shall be owned by a person under eighteen years of age, the owner shall be deemed to be the parent or guardian of such person (or the head of the Household in which said person resides).

(b) “**Own**” means maintains and keeps including the providing of food or shelter to any dog.

(c) “**At large**” means any dog that is unleashed and on property open to the public or is on private property not owned or leased by the owner of the dog unless permission for such presence has been obtained. No dog shall be deemed to be at large if it is: (a) leashed and under the supervision and control of the owner or other responsible person; (b) a police work dog in use for police work; (c) Working detection dog; (d) working therapy dog; (e) working search dog; or (c) accompanied by its owner or other responsible person and is actively engaged in hunting or training for hunting on unposted land or on posted land with the permission of the owner of the land.

(d) “**Aggressive dog**” means a canine, or canine crossbreed which has bitten, attacked, or inflicted injury on a person, companion animal as defined in subdivision five of section three hundred fifty of the Agriculture and Markets Law, farm animal as defined in subdivision four of section three hundred fifty of the Agriculture and Markets Law, or domestic animal as defined in subdivision seven of the Agriculture and Markets law, or without justification attacks a service dog, guide dog or hearing dog and causes physical injury or death.

(e) “**Vicious dog**” means a canine, or canine crossbreed which has killed a person or inflicted serious injury to a person, including multiple bites, serious disfigurement, serious impairment of health or serious impairment of a bodily function; or which continues to exhibit the behavior which resulted in a previous finding by a court that it is an aggressive dog, provided that its owner has been given notice of that finding.

TOWN OF HALFMOON

APPROVED BY TOWN BOARD

Date: January 11, 2006

[Signature]

TOWN CLERK, TOWN OF HALFMOON

(1)

(f) **“Police work dog”** Aggressive dog and Vicious dog do not include a police work dog as defined in subdivision eighteen of Article 7 of the New York State Agriculture and Markets Law.

Section 5. Dog License Fees.

(a) Pursuant to the authority of the New York State Agriculture and Markets Law Article T, each dog licensed in the town shall pay an animal fee of \$2.50 in addition to the statutory fee required by the Agriculture and Markets Law. Persons over the age of 65 shall be exempt from the Town fee of \$2.50 for the first dog licensed for each calendar year. The Town fee will not apply to any re-licensing of the same dog that occurs within the same year due to updated rabies vaccination.

(b) The license fee enacted herein shall not apply to any guide dog, hearing dog, service dog, war dog or police work dog.

(c) An additional \$5 surcharge shall be assessed on all dogs who are identified for licensing during the enumeration process. This fee shall be collected at the time of licensing and is in addition to the fees detailed herein.

Section 6. Restrictions. The owner of the dog shall be responsible when a dog violates any restrictions contained herein. It shall be unlawful for any dog in the Town of Halfmoon to:

(a) Be at large

(b) Engage in loud howling or barking so as to habitually or regularly annoy, alarm or bother any person; barking at an intrusion or a disturbance shall not constitute a violation of this Local Law.

(c) Cause damage or destruction to property or commit a nuisance by habitually defecating or urinating on public property or on premises of a person other than the owner of such dog unless the owner of said premises has given permission, or scavenging through refuse upon the premises of a person other than the owner of such dog, unless the owner of said premises has given permission therefore.

(d) Commit an overt act which causes a person, who is peaceably conducting himself in any place where he may lawfully be, to be placed in reasonable apprehension of bodily harm, when the dog has the apparent ability to inflict such harm.

(e) Habitually chase or run alongside of motor vehicles or bicycles.

Section 7. Dangerous or Vicious Dogs

(a) Any Animal Control Officer who has reason to believe that a canine, or canine crossbreed within the Town of Halfmoon is an aggressive dog or vicious dog shall apply to a magistrate of the Town for the issuance of a summons requiring the owner or custodian, if known, to appear before the Town Court at a specified time. The summons shall advise the owner of the nature of the proceeding and the matters at issue. The Animal Control Officer shall confine the animal until such time as evidence shall be heard and a verdict rendered. If the Animal Control Officer determines that the owner or custodian can confine the animal in a manner that protects the public safety, he may permit the owner or custodian to confine the animal until such time as evidence shall be heard and a verdict rendered. The court, through its contempt powers, may compel the owner, custodian or harbinger of the animal to produce the animal. If, after hearing the evidence, the court finds that the animal is an aggressive dog, the court shall order the animal's owner to comply with the provisions of this section. If, after hearing the evidence, the court finds that the animal is a vicious dog, the court shall order the animal euthanized.

(b). No canine, or canine crossbreed shall be found to be an aggressive dog or vicious dog solely because it is a particular breed. No animal shall be found to be an aggressive dog or vicious dog if the threat, injury or damage was sustained by a person who was (i) committing, at the time, a crime upon the premises occupied by the animal's owner or custodian, (ii) committing, at the time, a willful trespass or other tort upon the premises occupied by the animal's owner or custodian or (iii) provoking, tormenting, or physically abusing the animal, or can be shown to have repeatedly provoked, tormented, abused, or assaulted the animal at other times. No police dog which was engaged in the performance of its duties at such at the time of the acts complained of shall be found to be an aggressive dog or a vicious dog. No animal which, at the time of the acts complained of, was responding to pain or injury, or protecting offspring, shall be found to be an aggressive dog or a vicious dog.

(c). All dogs determined to be aggressive dogs shall be returned to their owner only after proof is provided to the town that the owner is eighteen years of age or older and who presents satisfactory evidence of the animal's current rabies vaccination, if applicable, and evidence that the animal is and will be confined in a proper enclosure, is and will be confined inside the owner's residence or is and will be muzzled and confined in the owner's fenced-in yard until the proper enclosure is constructed, that their residence is and will continue to be posted with clearly visible signs warning both minors and adults of the presence of a dangerous dog on the property.

(d). While on the property of its owner, an animal found by a court to be an aggressive dog shall be confined indoors or in a securely enclosed and locked structure of sufficient height and design to prevent its escape or direct contact with or entry by minors, adults, or other animals. The structure shall be designed to provide the animal with shelter from the elements of nature. When off its owner's property, an animal found by a court to be an aggressive dog shall be kept on a leash and muzzled in such a manner as not to cause injury to the animal or interfere with the animal's vision or respiration, but so as to prevent it from biting a person or another animal.

(e). If the owner of an animal found by a court to be an aggressive dog is a minor, the custodial parent or legal guardian shall be responsible for complying with all requirements of this section.

(f). After an animal has been found by a court to be an aggressive dog, the animal's owner shall immediately, upon learning of same, notify the local animal control authority if the animal is loose or unconfined, bites a person or attacks another animal, is sold, given away or dies, or has been moved to a different address.

(g). The owner of any animal which has been found by a court to be an aggressive dog who willfully fails to comply with the requirements of this section shall be guilty of a violation punishable by up to \$500 and/or 90 days in jail together with forfeiture of the aggressive or vicious animal.

Section 8. Disposal of Dead Animals. It shall be the responsibility of the owner to remove and properly dispose of a deceased animal within twenty-four (24) hours of the animals' death.

Section 9. Animal Care- In General.

(a) An owner or person having charge or custody of an animal shall provide their animal with adequate wholesome food and water, proper shelter and protection from inclement weather, and veterinary care when needed to prevent suffering.

(b) An owner or person having charge or custody of an animal shall not endanger the health of the animal by placing or confining the animal in a manner that would expose the animal to excessive heat, lack of food or water, or any other circumstances as may cause injury or death to the animal.

Section 10 Confinement of Animals in Motor Vehicles Prohibited

(a) Any person who confines an animal in an unattended, enclosed vehicle where the outside temperature is 70 degrees or greater, and the interior of the vehicle is not provided with conditioned air to maintain an internal temperature of 80 degrees Fahrenheit or less, shall be guilty of a violation punishable pursuant to Section 16 of this law.

(b) Any person who confines an animal in an unattended, enclosed vehicle so as to cause the animal to suffer from heat stress, shall be guilty of a violation punishable pursuant to Section 3 of this law. The Animal Control Officer or other officer shall have the authority to remove any animal found in an enclosed vehicle that appears to be suffering from heat stress. The animal shall be provided immediate veterinary care. The animal owner or custodian shall be responsible for all expenses incurred during the removal of the animal or its subsequent treatment and impoundment.

Section 11. Enforcement. This local law shall be enforced by any Animal Control Officer, dog warden, dog control office, peace officer, Deputy Sheriff, or New York State Trooper, when acting pursuant to his special duties, or police officer or other authorized town employee acting in the employ of or under contract to the Town of Halfmoon.

Section 12. Seizure, Impoundment, Redemption and Adoption.

(a) A dog may be seized, pursuant to the provisions in section 118 of the Agricultural and Markets Act for violation of this local law.

(b) Every dog seized shall be properly cared for, sheltered, fed and watered pursuant to Section 118 of the Agricultural and Markets Act for a redemption period of not less than five days.

(c) Seized dogs may be redeemed by producing proof of licensing and identification pursuant to the provisions of Article 7 of the Agriculture and Markets Law and by paying the impoundment fees set forth in section 118 of said Article.

(d) If the owner of any unredeemed dog is known, such owner shall be required to pay the impoundment fees set forth in subdivision (c) of this section whether or not such owner chooses to redeem his or her dog.

(e) Any dog unredeemed at the expiration of the appropriate redemption period, shall be made available for adoption or euthanized pursuant to the provisions of Section 118 of the Agriculture and Markets Law.

Section 13. Complaint Any person who observes a dog in violation of this local law may file a complaint under oath or an affirmation with a Justice of the Town of Halfmoon or with the Animal Control Officer, Dog Warden, Dog Control Officer, Deputy Sheriff or the New York State Trooper, specifying the nature of the violation, the date and time thereof, a complete description of the dog, including, for example, the breed, the approximate size, color, markings and distinguishing characteristics, and the name and residence, if known of the owner of the dog. Such complaint may serve as the basis for enforcing the provisions of this local law, except that two complaints, each originating from separate households, shall be required as the basis for enforcing the provisions of Section 5(b) hereof.

Upon receipt of the signed complaint by the Town Justice, the Town Justice may summon the alleged owner or other person harboring said dog to appear in person before him or her. If the summons is disregarded, the Justice may permit the filing of information and issue a warrant for the arrest of such person.

Section 14. Appearance Ticket. Any Animal Control Officer, dog warden, dog control office, peace officer, Deputy Sheriff, or New York State Trooper, when acting pursuant to his special duties, or police officer or other authorized town employee acting in the employ of or under contract to the Town of Halfmoon, observing a violation of this local law in his presence or receiving a complaint pursuant to Section 8 of this local law shall issue and serve an appearance ticket for such violation.

Section 15. Penalties. Any person convicted of a violation of this local law, except as detailed above in section 7, shall be deemed to have committed a violation and shall be subject to the following fines:

(a) A fine of not more than Fifty (\$50.00) Dollars for the first conviction of a violation of this local law.

(b) A fine of not more than Seventy-five (\$75.00) Dollars for the second conviction of this local law within one year of the first conviction of a violation of this local law.

(c) A fine of not more than Two Hundred Fifty (\$250.00) Dollars for the third or additional convictions of a violation of this local law within one year of the first conviction of a violation of this local law, and/or up to 15 days in jail.

(d) In the event of four (4) or more violations within a one year period, the court shall be empowered to order the dog seized by the Animal Control Officer pursuant to the provisions of the Agricultural and Markets Act and to either have the dog made available for adoption or be euthanized if not adoptable.

Section 16. Separability. Each separate provision of this local law shall be deemed independent of all other provisions herein, and if any provisions shall be deemed or declared invalid, all other provisions hereof shall remain valid and enforceable.

Section 17. Repealer. This local law shall supersede all prior local laws, ordinances, rules and regulations relative to the control of dogs within the Town of Halfmoon insofar as they are inconsistent herewith and they shall be, upon the effective date of this ordinance, null and void.

Section 18. Effective date. This local law shall take effect ten (10) days after its publication and posting according to law.